

City of Sherwood, Oregon
Planning Commission Meeting

February 6, 1996

1. Call to Order/Roll Call

Vice-Chairman Corrado called the meeting to order at 7:05 PM. Commission members present: George Bechtold, Susan Claus, Chris Corrado, Rick Hohnbaum, Kenneth Shannon and Marge Stewart. Chairman Gene Birchill was absent and excused. Planning Director Carole Connell and Assistant Planner Lisa Nell were also present.

2. Minutes of January 16, 1996 Commission Meeting

Vice-Chairman Corrado asked if there were any corrections, additions or deletions to the minutes of January 16, 1996. There being no comments,

Rick Hohnbaum moved the Planning Commission accept the January 16, 1996 minutes as presented. The motion was seconded by Marge Stewart and carried unanimously.

4A. PUD 95-2 Arbor Lane

Vice-Chairman Corrado announced that this agenda item was being continued to the February 20, 1996 Planning Commission meeting.

3. Community Comments

Vice-Chairman Corrado called for comments from the audience regarding any items not on the printed agenda.

Jim Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus suggested the Commission review Government Standards and Practices Code Section 244. Commission members with outside business interests need to understand, under the minutes, what a potential conflict of interest is and what an actual conflict of interest is. It is well defined in the statute and if by chance he is misreading the minutes that the Commission did not include potential conflicts of interest and actual conflicts of interest prior to voting on certain matters it may be an error in the minutes. He stated that given the severe penalties that can come about from the potential and actual conflict of interest under Code Section 244, he would not abridge the minutes any further. He will be pursuing this matter, first with the City Council and then he will take it to other administrative forums if they do not act upon it. Financial gain or solicitation prior to a hearing with an individual that is coming before the Commission, prior financial dealings, continual financial dealings and contractual relationships, may well be a conflict of interest. Mr. Claus suggested the Commission look to legal counsel for advice, perhaps even of Carole Connell, as to what those might be because as this proceeds to other forums, he would never assume that the City Attorney might tell you what you want to hear, but there

is a distinct possibility he might not tell you the law.

There were no further comments.

4. Public Hearings

Vice-Chairman Corrado reviewed the public hearing process, read the hearings disclosure statement and requested that Commission members reveal any conflict of interest, ex-parte contact or bias regarding any issues on the agenda.

Rick Hohnbaum announced regarding 4C SP 95-15 NW Fourslide, this particular firm is a regular client of his on a daily basis. He is also a member of the Tualatin River National Wildlife Refuge Board of Directors and the Refuge Manager will be providing testimony tonight. Mr. Hohnbaum excused himself from participation on this agenda item.

Susan Claus announced she had ex-parte contact with a member of the community regarding 4B CUP 95-4 & SP 95-14 Texaco Service Station who was interested in obtaining more information regarding the application. She referred the individual to Planning Director Carole Connell and advised that the meeting to review the application would be tonight.

Chris Corrado announced he had someone say to him at a Chamber of Commerce meeting that there was rumor to the effect there was a Texaco Station moving to town. He said this was the extent of the conversation.

There being no further disclosures, Vice-Chairman Corrado moved to the next agenda item.

4B. CUP 95-4 & SP 95-14 Texaco Service Station

Vice-Chairman Corrado called for the Staff Report. Lisa Nell reported this application is a site plan and conditional use permit for the construction of a Texaco automotive service station and 625 sq ft convenience store along Highway 99W and Borchers Drive. Ms. Nell referred the Commission to the Staff Report dated January 31, 1996, a complete copy of which is contained in the Commission's minutes book.

Ms. Nell reviewed the required findings for a conditional use permit. The zoning is Retail Commercial (RC) which allows outright general retail trade, and includes the proposed convenience store. The RC zone requires a conditional use permit for automotive service stations. Currently, there is no other gasoline service station southbound on Highway 99W between King City and McMinnville. Over the last few years the population of Sherwood has increased by more than 10% per year. There are approximately 33,000 vehicles which pass by Sherwood along 99W each day. There appears to be a demonstrable need for a station along the southbound lanes of 99W. Construction of a new building and demolishing the existing abandoned structure will be a positive aesthetic enhancement on that portion of the highway. Based on the findings of fact, the applicant's report and compliance with the criteria

for a conditional use, Staff recommends approval of CUP 95-4 subject to the SP 95-14 conditions.

The Commission agreed to review the site plan prior to making a motion on the conditional use permit.

Ms. Nell entered three additional documents into the record; a February 2, 1996 letter from Planning/Design Group (representing the applicant) responding to the conditions, a February 6, 1996 letter from Washington County regarding the application, and a February 6, 1996 letter from the Oregon Department of Transportation regarding the site plan.

Ms. Nell reviewed the required findings for site plan approval. The report included a new development checklist that indicates all of the data for code requirements. Comments from ODOT are incorporated into the conditions of approval. Borchers Drive is a County road and the applicant will need to comply with the recommendations and safety requirements of WCDLUT. In conclusion, based on agency comments and the findings of fact, Staff recommends approval of SP 95-14 subject to the conditions. Ms. Nell reviewed the conditions including the changes to Condition #4 and Condition #8.

Vice-Chairman Corrado asked if the applicant wished to testify.

Brian DeMarco, Planning Design Group, 122 SE 27th Avenue, Portland, Oregon 97214, representing the applicant (Enserv), addressed the Commission. George Johnston, Joe Johnson and Mike Nies from Enserv were also in attendance. Mr. DeMarco said they are quite pleased with the project. He indicated some of the changes which were not evident on the drawing. The trash facility will be moved behind the building. This will enable them to move the fueling pumps back and increase the queing lanes for incoming traffic. They will install a landscape buffer on the northwest property line which will grow to approximately 6 feet high. There will be sidewalks along 99W and a sidewalk on Borchers Drive. They will provide a connecting sidewalk from the 99W sidewalk to the site with adequate safety striped lane for pedestrians who will be using the facility.

Mr. DeMarco responded to the question raised concerning queing and site access. They will use a "right-in" only on 99W. The two driveways on Borchers Drive will be one-way; the south driveway being the ingress and the north driveway, which will be a shared access with the property to the north, will be the exit. The queing will be in one general direction. They plan to connect to the stormwater system and will be doing the calculations for on-site detention. They have an oil and water separator which will take the runoff from the canopy.

In response to Ms. Stewart's question, Mr. DeMarco said they had a traffic study done and asked that the study specifically address queing. A total of 15 cars may be in line, 8 at the pumps and 7 in line. There will be no problem exiting out of the site to

Borchers Drive. There are 3 parking spaces and 1 handicapped space for the convenience store. The applicant felt for safety and traffic circulation on the site the spaces should be limited to three. They are working out a shared agreement with the neighbors to the north for employee parking. They expect approximately 4 full time and 4 part-time employees. The hours of operation are expected to be 24-hours. They do not anticipate any particular back-up with patrons paying for gasoline inside the store. Mr. DeMarco thanked the Commission for the opportunity to make the presentation.

Vice-Chairman Corrado asked if there was anyone else wishing to speak in favor of the application.

Clyde List, 21235 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. List said he lives a few houses down from the site. He wanted to bring up a public safety issue that he knows the Commission is already aware of, but thought the applicant may not be aware of. The public service organizations in Sherwood are desperate for a place to hang their signs when they hold an event. The current system of placing signs in a public right-of-way around this facility is creating a safety hazard. There are plans to provide a more organized, systematic way to advertise Sherwood events, such as a reader board sign. Mr. List wanted to take this occasion to bring this to the applicant's attention and to suggest present circumstances are creating a public hazard as well as undermining the efforts of this applicant to make a visibly attractive facility.

Jim Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus wanted to raise a point of order before he testified. The Chairman said that you have to disclose conflicts of interest and ex-parte contact. This is not correct, as he understands it. Under Oregon Government Standards and Practices you need to disclose **potential** conflicts of interest. Mr. Claus read from the statute and hoped that it will show in the minutes exactly as read. Potential conflicts of interest means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or person's relative, or a business with which the person or person's relative is associated, unless a pecuniary benefit or detriment arises out of the following. Mr. Claus provided an example of a potential conflict of interest. You don't need to have the business relationship, you need to have one of your customers or clients asking for it. The reason we try to have this quasi-judicial forum neutral is to make absolutely sure that the person is neutral. Mr. Claus said they have been told by the Commission members that if they think they are neutral, they are neutral. This is a point he disputes and shall follow to a logical forum.

Mr. Claus said someone talked about traffic hazards, signs and that this is the motive for changing the current use. He guessed that it is popular to make such statements. The fact of the matter is, one of the individuals Mr. Claus works with, the ex-research director for the Department of Transportation, Federal Highway Safety Division, is just completing an extensive study for a foundation Mr. Claus runs, has

concluded that there is no study that is creditable that the government has ever done that this gives any credibility to whatsoever. Mr. Claus said the merits of this application, particularly the signage program, should stand on its own. This is the second point he is going to make after the potential conflict of interest, which may or may not have been disclosed here tonight. He discussed the Sherwood tax base and land use planning. It is incumbent to maximize commercial and industrial ground to get its base up to where it proportionately offsets these increases in residential and student population.

Vice-Chairman Corrado advised Mr. Claus that his testimony should be specific to the hearing at hand and that his comments should have been made prior in the Community Comments section of the agenda. He asked Mr. Claus if he had something specific that addresses this particular application that would be pertinent and of interest to the Commission, to please continue.

Mr. Claus said before he was interrupted he would have come to that point. Regardless of the earlier testimony about signage they have a strict obligation to bring the property to its highest and best use. The application here tonight fits into that category. The signage should be used to direct citizens to the other commercial areas in town, particularly the antique dealers. McDonalds has been specifically directed to provide signage for this purpose. Mr. Claus said the Commission should think of signs for what they are, commercial communication, social and political communication. He suggested a condition be placed on the application referencing a reader board so that the antique dealers downtown have a forum to use. This condition should be added to this application because it has been added before. The Commission has a strict obligation to look at this site and to tie it to its best use.

Mr. Claus said the traffic accident rate actually goes down when a service station, car wash, etc. are located in a facility. This has to do with a very complicated mix of origin destination, time of use and nature of customers. He supports this application fully with the one proviso in that the Commission should add some form of signage mix, as John Alto has done, as McDonalds will do and Albertson's has done with the sculpture, to keep customers stopping in Sherwood.

Vice-Chairman Corrado asked if there was anyone who wished to speak in opposition to the application. There being no opponent testimony, Vice-Chairman Corrado dispensed with the rebuttal portion of the hearing and closed the public hearing on this agenda item, unless a Commission member asked that it be reopened for additional testimony, for discussion and comments by the Commission.

Rick Hohnbaum said he was concerned about the traffic. He was not satisfied with the potential traffic pattern. Ms. Connell said traffic will have to go out Borchers Drive to get back to 99W. Mr. Hohnbaum thought traffic would be more likely to go through the frame shop parking lot rather than Edy Road to get back to 99W. Ken Shannon said if this is a problem, it was not created by the applicant. He agreed with

Mr. Claus that this is the best business for the location. Susan Claus said if the frame shop owners have a problem, this is the forum to bring it up. Ms. Connell said they will need a shared an access agreement between the frame shop and the applicant and is stated in Condition #5. The Commission discussed the flow pattern on the site. Vice-Chairman Corrado said it is a good point that signage should be provided directing traffic back to Pacific Highway. The Commission concurred.

Mr. Hohnbaum asked if a precedent was being created regarding employee parking. Ms. Connell said the code requires one space for every 1000 sq ft and the building is 625 sq ft. This is what the zone requires and existing standards need to be applied to the application. Ms. Connell will check with the County regarding the width of Borchers Drive.

Susan Claus asked the applicant for clarification regarding the traffic circulation for convenience store customers and fuel customers. The applicant said there is enough space for convenience store customers to pass through. The applicant said they have no objections to providing a reader board. They felt the convenience store location was the most appropriate for the site configuration. There being no further questions,

Rick Hohnbaum moved the Planning Commission approve CUP 95-4 Texaco Conditional Use Permit based on the findings of fact, Staff recommendations, and applicant comments. The motion was seconded by Marge Stewart and carried unanimously.

Rick Hohnbaum moved the Planning Commission approve SP 95-14 Texaco Automotive Service Station and Convenience Store Site Plan, based on the findings of fact, public testimony, Staff recommendations, applicant comments and conditions as revised. The motion was seconded by Marge Stewart.

Following further discussion,

Susan Claus moved to amend the motion to include reader board signage to Condition #8. The amendment was seconded by Ken Shannon and carried unanimously.

The amended motion was voted on and carried unanimously, subject to the following conditions of approval:

1. Provide engineered construction plans for public and private improvements including costs, maintenance and bonding provisions in compliance with City, ODOT, USA, WCDLUT and TVFRD standards. The plans shall include provisions for streets, on-site sidewalks, sanitary sewer, water, fire protection, storm water runoff, erosion control, grading, street lighting, landscaping, and signage.

2. Submit landscaping plan for the Borchers Drive 10 foot wide landscape corridor. The plan shall incorporate the existing vegetation, the required street trees and additional ground cover and be reviewed and approved by Staff.
3. All parking stalls must be 9 feet by 20 feet, except that 25% may be compact size (8 ft x 18 ft).
4. Comply with the requirements and safety improvements recommended by ODOT along the Highway 99W frontage as indicated in ODOT's February 6, 1996 letter. The access from Highway 99W is to be right-in access only and shall be marked and signed as such.
5. Comply with any requirements and safety improvements recommended by WCDLUT for Borchers Drive. Provide 5 foot sidewalks along the Borchers Drive frontage. The accessways to Borchers Drive are to be one-way and shall be marked and signed as such. Provide to the City an access and maintenance agreement for the shared accessway at the north end of the site.
6. Outdoor display is prohibited.
7. Enlarge the solid waste enclosure so that it is at least 15 ft wide by 10 ft deep.
8. Apply for and obtain an administrative sign permit prior to any sign installation. Provide signage directing customers to 99W. Provide an exterior reader board for community events.
9. Provide a four (4) foot connecting sidewalk from the site to the required six (6) foot public sidewalk along Highway 99W.
10. Provide pedestrian scale lighting along the four (4) foot connecting sidewalk.
11. Obtain a permit from USA's Industrial Waste Department. Extend the main sanitary sewer line and connection located behind Afges (Tax Lot 1900, Tax Map 2S 1 30D) to the subject site property line. Locate and remove the existing septic system.
12. Install a backflow device.
13. Obtain ODOT permits for storm water connection to Highway 99W and provide the City with a copy of the ODOT approval for storm line discharge to Highway 99W.
14. Obtain approval and permits from TVFRD and DEQ prior to the installation of the fuel tanks.

15. Obtain demolition permits from the City prior to demolition of the building and structures.

This approval is valid for one (1) year.

Vice-Chairman Corrado recessed the meeting at 8:25 PM for a 5 minute break and reconvened at approximately 8:30 PM to continue with Agenda Item 4C.

4C. SP 95-15 NW Fourslide

Vice-Chairman Corrado called for the Staff Report. Carole Connell reported this is a site plan application for the construction of a 57,680 sq ft manufacturing facility on Galbreath Drive, Lot 6, Industrial Park of Sherwood. Ms. Connell referred the Commission to the Staff Report dated January 30, 1996, a complete copy of which is contained in the Commission's minutes book.

Ms. Connell reported NW Fourslide produces precision stamped and formed parts from a continuous metal strip or wire. The operation is entirely indoors. The current business is on Teton Road in Tualatin and employs 35 people. They hope to expand to 45 employees. The parcel is adjoined to the north by a wooded, privately owned industrial parcel and the Tualatin River National Wildlife Refuge. All other adjoining land is in the industrial subdivision. The zoning is General Industrial (GI) and allows for manufacturing of industrial parts. In a response to Staff, the City of Tualatin said they have had no problems with the existing business.

Ms. Connell highlighted the main points of the report. Staff supports the idea of planting Cedar trees near the Refuge, however it is probably not legal to plant them in the area identified as an access easement, unless the easement is vacated. The area is a 60 foot private easement. The applicant has indicated they will revise the parking lot to meet the 9 x 20 dimension standards. The water quality pond will be relocated outside of the easement. The site plan indicates two driveways, 260 feet apart. The applicant indicated there are only one or two trucks a day visiting the site. The issues which could be a problem are the stormwater runoff and the Wildlife Refuge. She referenced and submitted a letter from Ralph D. Webber, Refuge Manager, US Fish & Wildlife Service dated February 5, 1996. Mr. Webber provided some recommendations which have not been included in the conditions of approval at this point. Ms. Connell reviewed the letter.

Ms. Connell entered three documents into the record; a February 1, 1996 letter from Tamara A. Green, 415 North Main, Pendleton, Oregon 97801, a property owner, filing an objection to the location of a water quality treatment facility which is within their 60 foot easement. The letter stated they do intend to use the easement and they do not intend to relinquish it. They are currently involved in litigation with Sherwood Industrial Park in regard to the easement. They will need to use the access easement in the very near future to commence a salvage logging operation on Tax Lot 100. The second document was a letter dated February 6, 1996 from Robert Gray Partners, Inc.

responding to the conditions. The third document was a letter from the US Fish and Wildlife Service dated February 5, 1996 discussed earlier.

In conclusion, Ms. Connell stated Staff recommends approval of SP 95-15 subject to the conditions of approval as revised. She recommended removing Condition #5.

Vice-Chairman Corrado asked if the applicant wished to testify.

Bob Gray, 10730 SW Highland, Tigard, Oregon 97224, addressed the Commission. Russ Leach, the design architect, could not be in attendance. Mr. Gray identified where the water treatment pond was being relocated. The parking spaces are being resized. August Kollom, owner of the Northwest Fourslide, was in attendance to answer any questions regarding the manufacturing process. The parts are very small. No grease is batched up on the process and the process is also very quiet. The parts are made for the high tech computer industry.

Vice-Chairman Corrado asked if there was anyone else wishing to speak in favor of the application.

Jim Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus said this is a classic case of why the Commission has to be done away with and a hearings examiner is needed. The applicant complies with the letter of the law and there is nothing you do in a case like this. You can't add extra conditions because the law does not allow it. Regardless of how nice it is to talk about wetlands protection, after *Dolan v. The City of Tigard*, you want to protect them, you buy them. If you inadequately proportioned the SDC credits, which he believes they have and believes they have been misapplied, the Commission's job really is to determine those gross issues. The applicant has complied with the letter of the law and if you don't like the law, change the law. Don't try to jack somebody around and say you have to be 25 or 60 feet from a wetland when, in fact, it is a regulatory taking. There is a direct nexus between the exacting process and the parceling process. Buy it and if you don't have enough money, raise your SDC's. Mr. Claus continued to discuss SDC's and holding an application up because the Commission made a mistake.

Sanford Rome, 1780 E. Willamette Street, Sherwood, Oregon 97140, addressed the Commission. Mr. Rome said he thought Mr. Claus pretty well admonished Staff for some of things they have tried to do here. He asked the Commission to have Staff address things he has brought up in the past which would make the City liveable. He welcomed NW Fourslide to town. He said the Commission should address parking and referred to the Pacific Lumber parking. He discussed tree preservation and said after the tree has been cut down it is too late. The Commission should review what is done with planning in general and what is being done to the town.

Mr. Rome asked Chris Corrado to resign from the Commission or that as an administrator of the Commission to try and be somewhat helpful and not show body

language during his testimony.

Vice-Chairman Corrado reminded Mr. Rome that this type of testimony should have been provided during the Community Comments portion of the agenda, not during the hearing for this particular agenda item.

Vice-Chairman Corrado asked if there was anyone else wishing to speak in favor of the application. Vice-Chairman Corrado asked if there was anyone who wished to speak in opposition to the application. There being no opponent testimony, Vice-Chairman Corrado dispensed with the rebuttal portion of the hearing and closed the public hearing on this agenda item, unless a Commission member asked that it be reopened for additional testimony, for discussion and comments by the Commission.

George Bechtold said there was a similar concern regarding runoff water with similar applications in the past. Ms. Connell said one of the applicants (Mill Power) was withdrawn. The other applicant was Atlas Concrete. Staff has researched other City stormwater monitoring systems and the permitting process. They plan to review this with the Public Works Director for implementation. Ms. Connell said this annual monitoring system could be applied to this application. Mr. Gray responded that the water is all internally recycled and it does not go back into any system.

Ken Shannon asked if the recommendations included in the letter from the Refuge Manager were being added as conditions. Mr. Gray said if the conditions were applied to NW Fourslide, they would have to be applied to everyone in town, not just this facility. He said Mr. Kollom would be agreeable to Item 1 referencing identification of raw materials used in the manufacturing process. Mr. Kollom said they do not use any chemicals, except oil for lubrication. The system is water base system which cost approximately \$500,000. Nothing is put into the sewer system. The Commission asked that the US Fish & Wildlife and the applicant communicate on the subject to the satisfaction of the Department of the Interior.

In response to Ms. Claus's question, Mr. Kollom said they are moving from Tualatin to Sherwood because the land that they need for expansion was only available in the Sherwood area, although they would have liked to stay in Tualatin.

George Bechtold asked that Mr. Webber receive a copy of the Notice of Decision. Ms. Tamara Green will also receive a copy of the notice.

There being no further discussion,

Susan Claus moved the Planning Commission approve SP 95-15 NW Fourslide Site Plan based on the findings of fact, Staff recommendations, applicant comments and public testimony. The motion was seconded by Ken Shannon and carried unanimously, subject to the conditions as revised and follows:

1. Submit engineered construction plans to the City, USA, TVFRD and County for their approval illustrating public and private utility improvements and estimated costs of street, water, sanitary and storm sewer, erosion control, hydrant locations, lighting and landscaping provisions. Public improvements shall be secured by a performance bond. Specifically, revise the site plan illustrating re-location of the water quality pond outside the access easement, unless the easement is vacated. Provide an oil separator for degreasing operations, if appropriate.
2. Revise the site plan illustrating revised stall dimensions, parking lot and circulation area striping and marking in accordance with City standards.
3. Ensure parking lot landscaping requirements have been met, as determined by Staff. Delete proposed trees in the access easement.
4. Install a sidewalk to City standards along the Galbreath Drive frontage prior to issuance of an occupancy permit.
5. Coordinate solid waste collection with Pride Disposal.
6. Apply for an administrative sign permit prior to sign installation.
7. Identify raw materials to be unloaded at the westside truck dock for use in manufacturing metal part products. Any materials creating a potential environmental hazard should be disclosed. Generic examples of materials include toxic chemicals and/or heavy metals.

This approval is valid for one year

5. Director's Report

Carole Connell referred the Commission to the memo dated January 18, 1996 regarding the Edy Partition. The rentals are a prior and continuous non-conforming use and are not a zoning violation.

Ms. Connell is scheduling one meeting a month now, the second meeting of the month, to discuss policy issues. March 19, 1996 will be the first meeting for this purpose. Mr. Bechtold asked for more information regarding the Lake Oswego monitoring program.

There being no further business to discuss, the meeting was adjourned at 9:05 PM.

Respectfully submitted,

Roxanne Gibbons
Planning Commission Secretary